

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION
Honorable Edward J. Davila
Courtroom 4 - 5th Floor**

**TITLE: *UNITED STATES v. RAMESH SUNNY BALWANI*
CASE NUMBER: 5:18-CR-00258-2 EJD**

Minute Order and Trial Log

Date: May 3, 2022

Time in Court: (8:41-9:42 AM; 9:50-11:57 AM; 12:35-2:23 PM; 2:50-4:04 PM)

TOTAL Time: 6 hrs, 10 min

Courtroom Deputy Clerk: Cheré Robinson

Court Reporter: Irene Rodriguez

APPEARANCES:

Plaintiff Attorney(s) present: Jeffrey Schenk, Robert Leach, John Bostic, Kelly Volkar

Also present: Special Agent - Chris McCollow

Paralegals – Maddi Wachs; Sara Slattery

Defendant Attorney(s) present: Jeffrey Coopersmith, Amy Walsh, Stephen Cazares, Aaron Brecher, Shawn Estrada, Sachi Schuricht, Serena Nichols

Also present: Paralegal – Jennifer Cygnor

Also present: Ramesh Sunny Balwani (out-of-custody)

PROCEEDINGS: Motion Hearing and Jury Trial (Day 25)

Motion Hearing: 1 hr, 1 min. (8:41-9:42 AM)

Hearing held on [1419] Motion to Exclude Evidence of Altering Pfizer Report. Argument of counsel heard. Court will allow evidence to be presented.

Jury Trial: 5 hrs, 9 min (9:50-11:57 AM; 12:35-2:23 PM; 2:50-4:04 PM)

Jury Trial held May 3, 2022. Testimony held and evidence entered.

Further Jury Trial set for May 4, 2022, at 9:00 AM.

See attached Trial Log.

The following exhibits were identified and offered:

Plaintiffs: 143, 159, 162, 167, 174, 15041, 5831, 5830, 5450, 5451, 5453, 4533, 4621

Defendants: 10561, 7350

The following exhibits are admitted into evidence:

Plaintiffs: 143, 159, 162, 167, 174, 15041, 5831, 5830, 5450, 5451, 5453, 4533, 4621

Defendants: 10561, 7350

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

HONORABLE EDWARD J. DAVILA

**Case Name: *United States v. Ramesh Sunny Balwani*
Case No: 5:18-CR-00258-2 EJD**

TRIAL LOG

TRIAL DATE: May 3, 2022			REPORTER: Irene Rodriguez	CLERK: Cheré Robinson
PLF	DEFT	TIME	DESCRIPTION	
		8:41 am	Court in session without Counsel outside of presence of Jury and witnesses	
			Hearing on [1419] Motion to Exclude Evidence of Altering Pfizer Report	
		9:42 am	Motion hearing concludes.	
			Court breaks for 8 minutes	
		9:49 am	Jury present	
		9:50 am	Court in session presence of Jury	
			Court queries Jurors re previous admonishment	
		9:51 am	Government calls Shane Weber to testify	
		9:52 am	Witness Shane Weber sworn and takes the stand	
		9:53 am	Government begins direct examination of Shane Weber	
143	Obj	10:01 am	Offered into Evidence	
		10:02 am	ADMITTED into Evidence (not offered for the truth of the matter asserted – only to show exchange of information between Theranos and Pfizer): 2008-10-11 Holmes Email to Power and Lipset re Follow up to our meeting, and attachment – Theranos Angiogenesis Study Report	
159	Obj	10:11 am	Offered into evidence	
			ADMITTED into Evidence: Nov 2008 Holmes, Lipset, Weber, Frenzel Email String re Follow up to our meeting	
162	Obj	10:22 am	ADMITTED into Evidence: Nov 2008 Email String re Final Report, and attachment – Theranos Angiogenesis Study Report and NDA	

TRIAL DATE: May 3, 2022			REPORTER: Irene Rodriguez	CLERK: Cheré Robinson
PLF	DEFT	TIME	DESCRIPTION	
167	Obj	10:27 am	Offered into Evidence	
		10:28 am	ADMITTED into Evidence: 2008-12-31 Summary report prepared by Shane Weber entitled <i>Diagnostics review of Theranos' Thechnology and Final Recommendations</i>	
174	Obj	10:39 am	ADMITTED into Evidence: 2009-01-30 Weber Email to Power re Theranos wrap up	
		10:42 am	Ex. 4858, previously admitted	
		10:48 am	Government completes direct examination of Shane Weber	
		10:49 am	Defense begins cross-examination of Shane Weber	
	10561	11:09 am	ADMITTED into Evidence: Feb 2009 Frenzel/Weber/Holmes Email String re Fertility assays	
		11:17 am	Ex. 4018, previously admitted	
		11:20 am	Ex. 20546, previously admitted	
		11:29 am	Defense completes cross-examination of Shane Weber	
		11:30 am	Government begins	
15041		11:31 am	ADMITTED into Evidence: Aug 2009 Lester/Lipset/Holmes Email String re momentum – IL-6	
		11:33 am	Ex. 7753, previously admitted	
		11:34 am	Government completes re-direct of Shane Weber	
			Witness #12 Shane Webber excused	
		11:35 am	Government calls Witness #13 Sarah Bennett	
		11:36 am	Sarah Bennett sworn and takes the stand	
		11:37 am	Government begins direct examination of Sarah Bennett	
		11:57 am	Court breaks for 38 minutes	
		12:35 pm	Court in session in presence of Jury and Witness Sarah Bennett	
			Government continues direct examination of Sarah Bennett	

TRIAL DATE: May 3, 2022			REPORTER: Irene Rodriguez	CLERK: Cheré Robinson
PLF	DEFT	TIME	DESCRIPTION	
5831	Obj	12:44 pm	Statement of Deficiencies Form	
		12:45 pm	Objection overruled	
			ADMITTED into Evidence (not admitted for truth of the matter, but only to notice to Defendant): 2015-06-13 Balwani/Gee/Arington Email String re audit reports, and attachments – 2013-12-10 HHS Letter to Theranos re Standard-Level Deficiencies; HHS Form CMS-2567 Statement of Deficiencies	
5830	Obj	12:55 pm	ADMITTED into Evidence: 2015-09-22 Balwani Email to King, Hoague, Dearborn, and attachment – Theranos PowerPoint 2015-09-22 CLIA Laboratory Overview	
5450		1:04 pm	ADMITTED into Evidence: HHS Form CMS-116 Clinical Laboratory Improvement Amendments (CLIA) - Application for Certification	
5451		1:09 pm	ADMITTED into Evidence: Theranos list of assays performed and name of instrument/device on which those tests were performed	
5453		1:12 pm	ADMITTED into Evidence: 2015-06-12 Theranos Clinical Lab Tests provided to HHS-CMS during inspection	
4533		1:18 pm	ADMITTED into Evidence: 2015-09-23 Theranos Letter to HHS-CMS re list of LDTs that Theranos tested on Theranos device (TSPUs) and time periods of when run	
4621	Obj	1:33 pm	ADMITTED into Evidence: 2016-01-25 HHS-CMS Letter to Theranos re Condition Level Deficiencies – Immediate Jeopardy, and attachment – HHS Form CMS-2567 Statement of Deficiencies and Plan of Correction	
		2:13 pm	Ex. 5387H, previously admitted	
		2:21 pm	Government completes direct examination of Sarah Bennett	
		2:22 pm	Jury departs Courtroom	
		2:23 pm	Court breaks for 27 minutes	
		2:50 pm	Court in session in presence of Jury and witness	
		2:51 pm	Defense begins cross-examination of Sarah Bennett	
Obj	7350	2:55 pm	ADMITTED into Evidence: Oct 2013 Email Chain re Background Information and discussion regarding Theranos, and attachments – Theranos Background (3).doc; PowerPoint (Theranos Workflow) [note: attachments admitted only as to background]	

TRIAL DATE: May 3, 2022			REPORTER: Irene Rodriguez	CLERK: Cheré Robinson
PLF	DEFT	TIME	DESCRIPTION	
		3:39 pm	Ex. 7386, previously admitted	
		3:41 pm	Ex. 5450, previously admitted	
		3:44 pm	Ex. 5453, previously admitted	
		3:49 pm	Ex. 5830, previously admitted	
		3:54 pm	Court admonishes Jury	
			Jury Departs courtroom	
			Sarah Bennett released for day	
		3:55 pm	Court in session with Counsel outside of presence of Jury and witnesses to discuss scheduling matters	
		4:04 pm	Court adjourns	
			Jury Trial Continued to May 4, 2022, at 9:00 AM	